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7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-343**

12 **JOAN MARIE FARLEY**
3060 Sunset Avenue, Apt. F101
13 Marina, California 93933
Registered Nurse License No. 303414

A C C U S A T I O N

14 Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
19 of Consumer Affairs.

20 2. On or about June 30, 1979, the Board of Registered Nursing issued Registered Nurse
21 License Number 303414 to Joan Marie Farley (Respondent). The Registered Nurse License was
22 in full force and effect at all times relevant to the charges brought herein and will expire on April
23 30, 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Registered Nursing (Board),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states, in pertinent part, that "[t]he board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 490 of the Code states, in pertinent part, that "[a] board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

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1 8. Title 16, California Code of Regulations, section 1444, states:

2 "A conviction or act shall be considered to be substantially related to the qualifications,
3 functions or duties of a registered nurse if to a substantial degree it evidences the present or
4 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
5 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

6 "(c) Theft, dishonesty, fraud, or deceit."

7 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request
8 the administrative law judge to direct a licentiate found to have committed a violation or
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
10 and enforcement of the case.

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12 FIRST CAUSE FOR DISCIPLINARY ACTION

13 (Substantially Related Conviction)

14 10. Respondent has subjected her registered nurse license to disciplinary action under
15 Code sections 2761(f) and 490 and Title 16, California Code of Regulations, section 1444(c) in
16 that she was convicted of a crime substantially related to the qualifications, functions or duties of
17 a registered nurse in that on or about September 3, 2004, in the Superior Court of California,
18 County of Monterey, Case Number SS041846A, entitled *The People of the State of California vs.*
19 *Joan Marie Farley*, Respondent was convicted by the court on her plea of nolo contendere of
20 violating Section 666/484 (Petty Theft w/ prior), a felony, and admitted that at the time of the
21 commission of the above offense, she was released from custody on her own recognizance or on
22 bail for a crime of 666/484 of the Penal Code, within the meaning of Penal Code section 12022.1.

23 11. On or about October 13, 2004, pursuant to said conviction, the execution of
24 sentence was suspended for three years and Respondent was placed on probation for three years
25 upon terms and conditions, which included, but not limited to, the following: serve 120 days in
26 County Jail, with credit for time served of two days and serve the first 45 days in-custody; attend

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1 and successfully complete the theft offender program as directed by the probation officer;
2 continue therapy with Dr. Guiroy and take medication as prescribed; make restitution in the
3 amount of \$122.42 to Whole Foods through probation officer; stay at least 100 yards away from
4 Whole Foods; stay away from Whole Foods and/or any retail store, and not enter store with any
5 empty or full bags; not possess, receive, or transport any firearms; participate in any counseling or
6 substance abuse program the probation officer deems necessary, including residential treatment;
7 and voluntarily submit person, vehicle, place of residence over which she has control to search or
8 seizure at any time of any day or night with or without a search warrant with or without probable
9 cause as directed by any probation officer or peace officer.

10 11 SECOND CAUSE FOR DISCIPLINARY ACTION

12 (Substantially Related Conviction)

13 12. Respondent has subjected her registered nurse license to disciplinary action under
14 Code sections 2761(f) and 490 and Title 16, California Code of Regulations, section 1444(c) in
15 that she was convicted of a crime substantially related to the qualifications, functions or duties of
16 a registered nurse in that on or about July 31, 2003, in the Superior Court of California, County of
17 Monterey, Case Number MS032265A, entitled *The People of the State of California vs. Joan*
18 *Marie Farley*, Respondent was convicted by the court on her plea of guilty of violating Section
19 666/484 (Petty Theft w/ two priors), a felony, and admitted having been previously convicted of
20 the crime of petty theft with prior on May 1, 2002, in the Superior Court of the County of
21 Monterey, State of California, and having served a term thereof in a penal institution and having
22 been imprisoned therein as a condition of probation for said offense, and admitted having been
23 previously convicted of the crime of petty theft with two priors on June 11, 2003, in the Superior
24 Court of the County of Monterey, State of California, and having served a term thereof in a penal
25 institution and having been imprisoned therein as a condition of probation for said offense.

26 13. On or about August 28, 2003, pursuant to said conviction, the imposition of
27 sentence was suspended and Respondent was placed on formal probation for three years upon
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1 terms and conditions, which included, but not limited to, the following: serve four days in
2 County Jail, with credit for time served of four days; serve 90 days with 90 days suspended
3 pending review hearing; voluntarily submit person, vehicle, place of residence over which she has
4 control to search or seizure at any time of any day or night with or without a search warrant with
5 or without probable cause as directed by any probation officer or peace officer; have no contact
6 directly or indirectly with Macy's stores from at least 100 yards away for one year; and complete
7 mental health evaluation, assessment and comply with treatment and medication
8 recommendations.

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10 THIRD CAUSE FOR DISCIPLINARY ACTION

11 (Substantially Related Conviction)

12 14. Respondent has subjected her registered nurse license to disciplinary action under
13 Code sections 2761(f) and 490 and Title 16, California Code of Regulations, section 1444(c) in
14 that she was convicted of a crime substantially related to the qualifications, functions or duties of
15 a registered nurse in that on or about June 11, 2003, in the Superior Court of California, County
16 of Monterey, Case Number MS031714A, entitled *The People of the State of California vs. Joan*
17 *Marie Farley*, Respondent was convicted by the court on her plea of nolo contendere of violating
18 Section 666/484 (Petty Theft w/ two priors), a felony, and admitted having been previously
19 convicted of the crime of petty theft on August 26, 1999 in the Superior Court of the County of
20 Monterey, State of California, and having served a term thereof in a penal institution and having
21 been imprisoned therein as a condition of probation for said offense, and admitted having been
22 previously convicted of the crime of petty theft with a prior on May 1, 2002 in the Superior Court
23 of the County of Monterey, State of California, and having served a term thereof in a penal
24 institution and having been imprisoned therein as a condition of probation for said offense.

25 15. On or about August 28, 2003, pursuant to said conviction, the imposition of
26 sentence was suspended and Respondent was placed on formal probation for three years upon
27 terms and conditions, which included, but not limited to, to the following: serve four days in
28 County Jail, with credit for time served of four days; voluntarily submit person, vehicle, place of

1 residence over which she has control to search or seizure at any time of any day or night with or
2 without a search warrant with or without probable cause as directed by any probation officer or
3 peace officer; have no contact directly or indirectly with Macy's stores from at least 100 yards
4 away for one year; and complete mental health evaluation and assessment and comply with
5 treatment and medication recommendations.

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7 FOURTH CAUSE FOR DISCIPLINARY ACTION

8 (Substantially Related Conviction)

9 16. Respondent has subjected her registered nurse license to disciplinary action under
10 Code sections 2761(f) and 490 and Title 16, California Code of Regulations, section 1444(c) in
11 that she was convicted of a crime substantially related to the qualifications, functions or duties of
12 a registered nurse in that on or about August 26, 1999, in the Superior Court of California,
13 County of Monterey, Case Number B9944720, entitled *The People of the State of California vs.*
14 *Joan Marie Farley*, Respondent was convicted by the court on her plea of nolo contendere of
15 violating Section 484/488 (Petty Theft), a misdemeanor. Pursuant to said conviction, the
16 imposition of sentence was suspended and Respondent was placed on court probation for one
17 year upon terms and conditions, which included, but not limited to, the following: serve two days
18 in County Jail, with credit for time served of two days; obey all laws; voluntarily submit person,
19 vehicle, place of residence over which she has control to search or seizure at any time of any day
20 or night with or without a search warrant with or without probable cause as directed by any
21 probation officer or peace officer; perform court-ordered community service; engage in court-
22 ordered individual psychotherapy and counseling; and stay out of Neiman-Marcus.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 303414, issued to Joan Marie Farley;
2. Ordering Joan Marie Farley to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

1/21/10

for

Stacie Bernum
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2009405649
CR: 01/11/10